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Criminal Original Petition No.3462 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.3462 of 2024

K.G.Selvasekaran
S/o.Govindaraj

...Petitioner

Vs

M.E.Shajahan
S/o.Mohammed Esaq

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to set aside the order dated 02.11.2023 made in CrI.MP.No.27841 of 2023 in CrI.A.No.663 of 2023 passed by the learned Principal Sessions Judge, Chennai in so far as the condition to deposit 20% of the compensation amount.

For Petitioner : Mr.P.Durai Kannan

ORDER

This Criminal Original petition has been filed challenging one of the condition that was imposed by the Court below by directing the petitioner to deposit 20% of the compensation amount awarded by the Trial



Criminal Original Petition No.3462 of 2024

Court, while suspending the sentence imposed by the Trial Court in CC No.927 of 2019.

2. This Court has heard the learned counsel for the petitioner and perused the materials available on record.

3. This Court had an opportunity to go through the entire cross examination of PW1 and also the findings that have been rendered by the Trial Court and the grounds that have been raised by the petitioner in the Criminal Appeal. There are arguable points which requires consideration.

4. This Court in Crl OP No.947 of 2024 dated 22.01.2024 has held as follows :-

8. This Criminal Original Petition is disposed of in the above terms.

Before drawing the curtains in this case, this Court thought it fit to bring to the notice of the District Judiciary the above two judgments, particularly, the judgment of the Apex Court. While dealing with an application for suspension of sentence



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Criminal Original Petition No.3462 of 2024

or for grant of bail when an appeal is filed against the conviction for offence u/s.138 of the Negotiable Instruments Act, the Courts must not mechanically impose a condition of deposit of 20% of the compensation amount/cheque amount u/s.148 of the Negotiable Instruments Act. When any ground has been raised by the appellant for reducing the percentage or for exempting the deposit of such amount, it has to be dealt with by the appellate Court and a reasoned order must be passed if the Court wants to direct the appellant to deposit 20% of the compensation amount/cheque amount. A copy of this order shall be circulated to all the Principal District Courts across the State of Tamil Nadu.

5. In view of the above, whenever the appellate Court wants to impose 20% compensation as a condition for suspension of sentence, the Appellate Court has to ascertain reasons more particularly where the appellant has taken arguable points in the appeal.

6. In the light of the above order, the condition imposed by the Court below to deposit 20% of the compensation amount is interfered and the matter is remanded back to the file of Principal Sessions Judge, Chennai. The Court below shall take into consideration the grounds that have been raised by the petitioner and shall decide upon the condition to be imposed



Criminal Original Petition No.3462 of 2024

with regard to the deposit of compensation by passing an order within a period of four weeks from the date of receipt of a copy of this order.

7. This Criminal Original petition is disposed of in the above terms.

19.02.2024

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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To

1. Principal Sessions Judge, Chennai

2. The Public Prosecutor,
High Court, Madras.

N.ANAND VENKATESH, J

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Criminal Original Petition No.3462 of 2024

Criminal Original Petition No.3462 of 2024

19.02.2024